

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOMAS HAILEMARIAM,

Defendant.

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**Case No. 2:22-cr-109
JUDGE MICHAEL H. WATSON**

**UNITED STATES' MOTION FOR
A PRELIMINARY ORDER OF FORFEITURE**

The United States respectfully moves this Court for entry of a Preliminary Order of Forfeiture in this case and in support of this motion offers the record in this case and the following memorandum.

Memorandum

On June 24, 2022, a Grand Jury in this District returned an Indictment (Doc. 18) charging Defendant Tomas Hailemariam with Possession with Intent to Distribute Controlled Substances, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), and (b)(1)(D) (Count 1), Possession of a Firearm in Furtherance of a Drug Trafficking Crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i) (Count 2), and Prohibited Person in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2) (Count 3).

In accordance with Rule 32.2 of the Federal Rules of Criminal Procedure, the Indictment also contained forfeiture allegations, Forfeiture Allegations A and B, notifying Defendant Hailemariam that upon conviction of any of the offenses alleged in the Indictment, he shall forfeit to the United States:

- A. in accordance with 21 U.S.C. § 853(a)(1) and (2), all right, title, and interest in any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of any offense in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), and (b)(1)(D), and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation(s), and
- B. in accordance with 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c), all firearms and ammunition involved in or used in any of the offenses alleged in the Indictment,

including, but not limited to, the following property (which is hereinafter collectively referred to as “the subject property”):

- a) A Girsan-manufactured, model Regard, 9mm, semi-automatic handgun, bearing Serial Number T6368-20A16323;
- b) A Ruger-manufactured, model SR9, 9mm, semi-automatic handgun, bearing Serial Number 330-61894;
- c) A Kimber-manufactured, model Custom II, .45 caliber, semi-automatic handgun, bearing Serial Number K287969;
- d) A Taurus-manufactured, model PT 738, .380 caliber, semi-automatic handgun, bearing Serial Number 20571F;
- e) A Smith & Wesson-manufactured, model M&P .380 Shield, .380 caliber, semi-automatic handgun, with an unknown Serial Number;
- f) A Smith & Wesson-manufactured, model M&P 15-22P, .22 caliber, semi-automatic firearm, bearing Serial Number WAK6917;
- g) A Smith & Wesson-manufactured, model Bodyguard, .380 caliber semi-automatic handgun, bearing Serial Number KDN7520;
- h) A Glock-manufactured, model 43X, 9mm, semi-automatic handgun, Serial Number BUEE466;
- i) A pistol magazine with ammunition from the Girsan Regard;
- j) A .45 caliber pistol magazine with ammunition from Kimber Custom II;
- k) Two pistol magazines with ammunition from Smith & Wesson firearm;
- l) A pistol magazine with ammunition from Glock 43X;
- m) An empty extended pistol magazine;
- n) A pistol magazine with ammunition from the Taurus .380;
- o) An empty pistol mag from a Smith & Wesson firearm;
- p) A Motorola MC382 cellular telephone, bearing Serial Number IMEI 356611282969470;
- q) A blue/black AT&T flip style cellular telephone, bearing Serial Number IMEI 864862048287310;
- r) A blue AT&T telephone, bearing Serial Number IMEI 866099020855644; and

- s) A blue Sprint Sanyo flip style cellular telephone, Model SCP-2400, bearing Serial Number FCC ID AEZSCP-24H.

On November 8, 2023, a Plea Agreement (Doc. 43) was filed in this case in which Defendant Hailemariam agreed to plead guilty to Counts 1 and 2 of the Indictment, charging him with Possession with Intent to Distribute Controlled Substances, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), and (b)(1)(D) (Count 1), and Possession of a Firearm in Furtherance of a Drug Trafficking Crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i).¹ Defendant Hailemariam also agreed to voluntarily surrender for immediate forfeiture to the United States all of his right, title, and interest in all property seized in this case, including, but not limited to, the subject property identified in Forfeiture Allegations A and B of the Indictment. He acknowledged that the subject property constitutes, or was derived from, proceeds obtained, directly or indirectly, as a result of the violation of 21 U.S.C. § 841 to which he has agreed to plead guilty, and/or is property that was involved in, was used, or was intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violations of 18 U.S.C. §§ 922 and 924 and/or 21 U.S.C. § 841 to which he has agreed to plead guilty, and is therefore subject to forfeiture to the United States in accordance with 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(a)(1) and (2). Defendant Hailemariam further agreed to the entry of any orders necessary to complete the forfeiture and disposal of the subject property.

On November 8, 2023, Defendant Hailemariam, having consented to enter a guilty plea before a magistrate judge, appeared before Magistrate Judge Norah McCann King and entered guilty pleas to Counts 1 and 2 of the Indictment. (*See Courtroom Minutes, Doc 49.*) On the same date, a Report and Recommendation (Doc. 50) was filed in this case in which Magistrate Judge

¹ In accordance with Paragraph 9 of the Plea Agreement, the United States agrees to the dismissal of the remaining counts of the Indictment at the entry of the final judgment in this case.

King found that Defendant Hailemariam knowingly and voluntarily pleaded guilty to Counts 1 and 2 of the Indictment because he is in fact guilty of the offenses alleged therein.

On November 28, 2023, this Court entered an Order (Doc. 52) accepting Defendant Hailemariam's pleas of guilty to Counts 1 and 2 of the Indictment and adopting the Report and Recommendation of Magistrate Judge King.

Finally, since the return of the Indictment and the filing of the Plea Agreement in this case, the Federal Bureau of Investigation ("FBI"), as custodian of the subject firearms, has confirmed to the United States that it has recovered the serial number for the Smith & Wesson-manufactured, model M&P .380 Shield, .380 caliber, semi-automatic handgun identified as forfeiture item (e). The serial number for this firearm is NJE0180.

Therefore, the United States asserts that based upon the record of this case and the agreement of the parties, the requisite nexus has been established between the property described herein and the violations of 18 U.S.C. § 924(c)(1)(A)(i) and/or 21 U.S.C. §§ 841(a)(1), (b)(1)(C), and (b)(1)(D) alleged in Counts 1 and 2 of the Indictment to which Defendant Tomas Hailemariam has pleaded guilty, and respectfully requests that the Court issue a Preliminary Order of Forfeiture ordering Defendant Tomas Hailemariam to forfeit all of his right, title, and interest in the following property to the United States in accordance with 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(a)(1) and (2):

- a) A Girsan-manufactured, model Regard, 9mm, semi-automatic handgun, bearing Serial Number T6368-20A16323;
- b) A Ruger-manufactured, model SR9, 9mm, semi-automatic handgun, bearing Serial Number 330-61894;
- c) A Kimber-manufactured, model Custom II, .45 caliber, semi-automatic handgun, bearing Serial Number K287969;
- d) A Taurus-manufactured, model PT 738, .380 caliber, semi-automatic handgun, bearing Serial Number 20571F;
- e) A Smith & Wesson-manufactured, model M&P .380 Shield, .380 caliber, semi-automatic handgun, bearing Serial Number NJE0180;

- f) A Smith & Wesson-manufactured, model M&P 15-22P, .22 caliber, semi-automatic firearm, bearing Serial Number WAK6917;
- g) A Smith & Wesson-manufactured, model Bodyguard, .380 caliber semi-automatic handgun, bearing Serial Number KDN7520;
- h) A Glock-manufactured, model 43X, 9mm, semi-automatic handgun, Serial Number BUEE466;
- i) A pistol magazine with ammunition from the Girsan Regard;
- j) A .45 caliber pistol magazine with ammunition from Kimber Custom II;
- k) Two pistol magazines with ammunition from Smith & Wesson firearm;
- l) A pistol magazine with ammunition from Glock 43X;
- m) An empty extended pistol magazine;
- n) A pistol magazine with ammunition from the Taurus .380;
- o) An empty pistol mag from a Smith & Wesson firearm;
- p) A Motorola MC382 cellular telephone, bearing Serial Number IMEI 356611282969470;
- q) A blue/black AT&T flip style cellular telephone, bearing Serial Number IMEI 864862048287310;
- r) A blue AT&T telephone, bearing Serial Number IMEI 866099020855644; and
- s) A blue Sprint Sanyo flip style cellular telephone, Model SCP-2400, bearing Serial Number FCC ID AEZSCP-24H.

Respectfully submitted,

KENNETH L. PARKER
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CERTIFICATE OF SERVICE

I hereby certify on the 2nd day of January 2024, the foregoing Motion for a Preliminary Order of Forfeiture was filed and served on all attorneys of record using the Court's CM/ECF system.

s/S. Courter Shimeall
S. COURTER SHIMEALL (0090514)
Assistant United States Attorney